

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10075 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HASMUKHKUMAR D DAVE

Versus

LICENSING BOARD

Appearance:

MR PB MAJMUDAR for Petitioners

MR DA BAMBHANIA for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 10/01/97

ORAL JUDGMENT :

1. Petitioners herein are employees of the Municipal Corporation of Baroda. The petitioners used to take training of Wireman after office hours with the private contractors without any remuneration. Having acquired the experience, as above, the petitioners had applied for wireman's examination to the respondent-Board. The petitioners passed this examination of Wireman and

accordingly the Licensing Board, Government of Gujarat issued Wireman's Certificates to the petitioners. According to the Rules of the Municipal Corporation, where the petitioners have been working, if a class IV employee passes 2nd Class Wireman's Examination he is eligible to be considered for appointment on the post of Pumpman in the Water Supply Department of the Corporation and on that basis the Corporation had issued a Circular calling upon its employees serving as Class IV to send necessary documents, if any one had passed the 2nd Class Wireman's Examination through the Head of the Department. The petitioners, who were working with the Municipal Corporation as Class IV employees and who had passed the 2nd Class Wireman's Examination sent necessary documents with the Certificate of passing the said Examination, as passing of 2nd Class Wireman's Examination was one of the requirements for being appointed/promoted as Pumpmen. Alongwith this Special Civil Application, the Certificate in relation to petitioner No.1 has been placed on record and it has been stated that all the petitioners have passed the aforesaid Examination and have been granted such Certificates by the respondent-Board. All these petitioners have passed the oral, written and practical Examination and the Certificates of passing the Wireman's Examination had been given to them on account of their performance in the Examination. It has been stated by the petitioners that on the basis of some anonymous application that the petitioners had not taken the no objection Certificate from the Corporation for appearing in the said Examination, the respondent-Board sent individual letters to each of the petitioners on 10.7.96 informing that even though they were serving in the Corporation at the time of appearing in the Wireman's Examination, they had produced experience Certificates of private contractors for the purpose of appearing in the Examination. They were asked to appear before the General Body of respondent-Board on 23.7.96. The respondent-Board had also called the concerned Contractors but only one or two contractors remained present and they had also stated that the petitioners used to come for the training of Wireman after office hours and were not paid any remuneration. The respondent-Board has cancelled the appearance of the petitioners in the Examination and the licences issued to the petitioners have also been cancelled by order dated 15.11.96. One such order has been placed on record as Annexure "E" which is in relation to the petitioner No.1.

2. Rule was issued on 19.12.96 after issuing notice. But no reply or any affidavit-in-reply has been filed. The petition was sought to be contested orally by

Mr. Bambhania and Mr. Bambhania submits that Certificates of experience, which the petitioners had obtained from the private contractors, could not be obtained by them because during the same period they were working with the Municipal Corporation. There is no denial to the averments of the petitioners that they used to work with the private contractors as a part of the training without any remuneration after their working hours with the Municipal Corporation. The fact can not be lost sight of that the petitioners have in fact passed Wireman's Examination held by the respondent-Board itself and the licences, which have been issued to the petitioner on the basis of passing said Examination, can not be cancelled merely because the petitioners were working with the Municipal Corporation. Such an order of cancelling the Certificate of Wireman's examination would clearly amount to the denial of the fruits of the labour put in by the petitioners in passing this examination, more particularly when the Board does not object to their skill of passing this examination. The only technical ground is that they could not have worked with the private contractors while being employees of the Municipal Corporation. On this basis if at all there could be any aggrieved party it could be the Municipal Corporation, but Mr. Majmudar has categorically stated that the Municipal Corporation has no objection either with regard to the petitioners gaining experience with private contractors or with regard to their continuance in the service as Class IV employees as also for the purpose of their consideration and appointment as pump men.

3. Faced with such a situation the learned Addl. G.P., submitted that the impugned order, which has been placed on record, is only with regard to one of the petitioners i.e. petitioner No.1 and, therefore, relief should be given to the petitioner No.1 only as the orders passed with regard to the other petitioners have not been placed on record. The petitioners have categorically stated that same is the Certificate possessed by them, similar type of notices were issued to them as also to the contractors with whom they had worked and replies of only those contractors were on record, who had responded to the notices issued by the Board and other contractors did not appear. It has also been categorically stated in the petition that similar orders had been passed with regard to each of the petitioners. Such distinctly stated facts were not sought to be controverted by filing any reply and at the fag end of the final arguments, if such a hyper technical objection is taken by the learned Addl. G.P. representing a virtuous litigant like

welfare State, I am not inclined to countenance such an objection so as to result into the multiplicity of the proceedings and to call upon all the petitioners to file similar type of orders or to file separate petitions so as to increase the bulk of the record and so as to pile up the number of the petitions resulting into multiple petitions of similar type. I find that the cancellation of the appearance of the petitioners in the Examination for the Certificate of Wireman was wholly uncalled for and unwarranted as has been done by the Board with regard to each of the petitioners and petitioner Nos.2 to 14 are also entitled to the same relief as the petitioner No.1. The orders like Annexure 'E' passed with regard to each of the petitioners are hereby quashed and set aside on the same reasoning as applied to the order passed with regard to petitioner No.1.

4. This Special Civil Application is accordingly allowed and the Rule is made absolute with no order as to costs.